(7)

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

Single Bench

Miscellaneous Appeal (C) No. 09 of 2007.

(Miscellaneous Appeal under section 173 of the Motor Vehicle Act, 1988)

APPELLANT: Rajkumar Sahu S/o Shri Balaram Sahu Aged about25 years, R/o Village Sargaon, Police Station Hirri, Tahsil & District Bilaspur (Chhattisgarh)
(Claimant)

P.R. No. 21/1/07 Presented by Shri S.K. Singh dated 02/1/07

VERSUS

RESPONDENTS:
(Driver) 1. Gopal Das Alias Raju Lalwani s/o Shri Hardasmal Lalwani, aged about 23 Years, R/o Village Sargaon, Police Station Hirri, Tahsil & District Bilaspur (Chhattisgarh)

(Owner) 2. Manharan Lal Manglani, S/o Shri Narayan Das Manglani aged about 45 years, Resident of Village-Chakarbhata, P.S. Chakarbhata, Tahsil & District - Bilaspur (Chhattisgarh)

(Insurer) 3. The New India Assurance Company Limited, Through Divisional Manager, Divisional Office, Rajeev Plaza, Bus Stand, Bilaspur, (Chhattisgarh)

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक M.A.(C) No. 09 **सन् 2007**

आदेश पत्रक (पूर्वानुबद्ध)

[redacted] का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

09.01.2007

Shri S.K. Guha, learned counsel for the appellant.

Heard on admission.

It was urged by learned counsel for the appellant that the learned Motor Accident Claims Tribunal erred in recording a finding that the claimant had suffered 25% permanent disability in the left humerus bone since it was contrary to the disability certificate Ex. P-31 showing permanent disability of 45%. It was also urged that the claimant is a Rikshaw puller and his monthly income has wrongly been assessed as Rs.2,000/- per month.

Having heard learned counsel for the appellant, I have perused the impugned award. The claimant was a Rikshaw puller at Bilaspur and on the evening of the fateful day he was returning to his village in a Tempo which collided with a truck. Due to the accident, the appellant-claimant suffered fracture of left humerus bone. The appellant-claimant was admitted in hospital from 14.09.2005 to 21.09.2005. The learned Motor Accident Claims Tribunal after considering the disability certificate Ex. P-31 regarding permanent disability of 45% in the left humerus bone came to the conclusion that the claimant had suffered loss of earning capacity to the extent of 25% due to above accident. Taking monthly income of the claimant at Rs.2,000/-, the learned Motor Accident Claims Tribunal after considering the loss of 25% in the earning capacity assessed loss of earning capacity at Rs.6,000/- yearly (500 X 12) and considering the age of the appellant-claimant applied multiplier of 18 and assessed loss of earning capacity at Rs.1,08,000/-. The learned Motor Accident Claims Tribunal also awarded an amount of Rs.2400/- towards incidental expenses incurred during hospitalization, Rs.10,253/- towards

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश – 2 –	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

medical expenses, Rs.10,000/- towards loss of future amenities and Rs.10,000/- towards loss of pain and suffering. In this manner, the learned Motor Accident Claims Tribunal awarded total compensation of Rs.1,40,653/-.

A perusal of the impugned award shows that the disability certificate Ex. P-31 was valid for a period only for 3 years. Medical evidence either of the treating doctor or of the doctor who gave the certificate regarding permanent disability was not adduced before the learned Motor Accident Claims Tribunal. In this view of the matter, the manner in which the learned Motor Accident Claims Tribunal has computed the loss of earning capacity cannot be faulted with. Award of compensation under conventional heads is also adequate. In this view of the matter, the compensation awarded by the learned Motor Accident Claims Tribunal is just and reasonable compensation.

In the result, this Miscellaneous Appeal being devoid of merit is dismissed at the stage of admission. No order as to costs.

Sd/-
Dilip Raosaheb Deshmukh
Judge

Tumane

P.T.O.

9/12/11